



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2021-0172]

Commercial Driver's License Skills Testing: Application for Exemption; American Association of Motor Vehicle Administrators (AAMVA)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Application for exemption; request for comments.

SUMMARY: FMCSA announces that the American Association of Motor Vehicle Administrators (AAMVA) requests a multi-year exemption to allow the State Driver Licensing Agencies (SDLAs) in Maryland, New Hampshire, and Virginia to continue using the revised Commercial Driver's License (CDL) pre-trip vehicle inspection and revised control skills test procedures, after current field tests being conducted as part of a pilot program under a waiver granted by the Federal Motor Carrier Safety Administration (FMCSA) have been completed. AAMVA states that the requested exemption would enable these States to continue operating under the pilot model without the burden of reverting to the older CDL test model requiring cost and delays associated with the re-configuration of testing locations and retraining of CDL test examiners. FMCSA requests public comment on the applicant's request for exemption.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER.]

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA-2021-0172 by any of the following methods:

- **Federal eRulemaking Portal:** www.regulations.gov. See the **Public Participation and Request for Comments** section below for further information.

- **Mail:** Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.
- **Hand Delivery or Courier:** West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- **Fax:** 1-202-493-2251.

Each submission must include the Agency name and the docket number (FMCSA-2021-0172) for this notice. Note that DOT posts all comments received without change to www.regulations.gov, including any personal information included in a comment. Please see the **Privacy Act** heading below.

Docket: For access to the docket to read background documents or comments, go to www.regulations.gov at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards, FMCSA, at 202-366-2722 or by e-mail at MCPSD@dot.gov. If you have questions on

viewing or submitting material to the docket, contact Docket Services at (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2021-0172), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to www.regulations.gov and put the docket number, “FMCSA-2021-0172” in the “Keyword” box, and click “Search.” When the new screen appears, click on the “Comment Now!” button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may grant or not grant this application based on your comments.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption and the regulatory provision from which the exemption is granted. The notice must specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Current Regulatory Requirements

The Commercial Driver's License (CDL) requirements in 49 CFR part 383, Subpart G, Required Knowledge and Skills, specifically section 49 CFR 383.133(c)(1)-(2) require the following: *Test methods*: (1) A State must develop, administer and score the skills tests based solely on the information and standards contained in the driver and examiner manuals referred to in § 383.131(a) and (b); and (2) A State must use the standardized scores and instructions for administering the tests contained in the examiner manual referred to in § 383.131(b).

Applicant's Request

On October 25, 2021, the American Association of Motor Vehicle Administrators (AAMVA) requested that FMCSA consider granting the States of Maryland, New Hampshire, and Virginia (the pilot States) a multi-year exemption to allow these 3 pilot States to continue using revised CDL vehicle inspection and revised control skills procedures. The requested exemption would enable these pilot States to continue operating under the pilot model without the burden of reverting to the older CDL test model requiring cost and delays associated with the re-configuration of testing locations and retraining of CDL test examiners.

On August 16, 2021, AAMVA requested a 90-day waiver from 49 CFR 383.133 to enable the pilot States to complete field tests of the new CDL skills test procedures. This waiver request was subsequently granted on August 31, 2021 for the period of September 1, 2021 through December 1, 2021, after FMCSA determined that CDL skills testing conducted under the terms and conditions of the waiver would achieve an equivalent level of safety to the current regulations. AAMVA now seeks to allow the pilot States to continue operating under the revised CDL vehicle inspection and revised control skills procedures once the field test waiver period has concluded. According to AAMVA, the requested exemption “would permit these States to continue CDL testing without the burden of reverting back to the older CDL test model which would require cost and delays associated with re-configuration of testing locations and retraining of CDL examiners.”

AAMVA also notes that the requested exemption would allow continued use of the revised testing system by the pilot States operating under the current waiver while AAMVA and FMCSA analyze the field test results and determine if any additional adjustments warrant further review by the Agency and testing by these pilot States. If the Agency adopts the modernized test, the requested exemption will minimize the back-and-forth and confusion of rotating between CDL test models in the 3 pilot States during the

exemption period. If FMCSA does not accept the modernized test, the pilot States would revert to the current system but would need up to 30 days to transition and notify industry of the return to the current CDL test model. A copy of the AAMVA exemption application is in the docket listed at the beginning of this notice.

IV. Equivalent Level of Safety

In granting AAMVA's original waiver request from 49 CFR 383.133, the FMCSA determined that a waiver of the traditional pre-trip inspection and basic vehicle control skills testing requirements would not have an adverse impact on safety because the revised skills test will provide a comparable level of rigor as the current tests to ensure that participating CDL applicants demonstrate a level of knowledge and skills that prove they can operate commercial motor vehicles safely. AAMVA requested the exemption be granted under the same terms and conditions as the waiver. Under the terms of the waiver, the tests must be administered in a controlled setting, located within States' skills testing facilities. All other safety requirements, such as requiring the applicant to pass the traditional on-road test segment of the skills test, continue to apply. In addition, the pilot States may administer the revised examinations only to applicants who are domiciled in their respective States. The pilot States must continue to be prohibited from issuing CDLs to field test applicants unless the applicant passes all the required segments of the skills test.

V. Request for Comments

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on the American Association of Motor Vehicle Administrators (AAMVA) application for an exemption from 49 CFR 383.133(c)(1)-(2). All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the Addresses section of this notice. Comments

received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also

continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Larry W. Minor,
Associate Administrator for Policy.

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